## UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

:

BARRY CUMMINGS and HARRY CUMMINGS, Jr.,

Administrator of Estate of Mary Louise

Cummings, Deceased

CIVIL ACTION

Plaintiffs,

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No. 11-02691

ALLSTATE INSURANCE COMPANY,

v.

Defendant.

Defendant.

## **ORDER**

AND NOW this 11th day of July, 2011, upon consideration of Allstate Insurance Company's ("Defendant") Motion to Dismiss (Doc. No. 3) and Barry Cummings and Harry Cummings, Jr. as Administrator of the Estate of Mary Louise Cummings (collectively, "Plaintiffs") Response in Opposition thereto, it is hereby **ORDERED** that said Motion is **GRANTED**. It is further **ORDERED** that:

- Plaintiffs' claim for compensatory damages in Count II of Plaintiffs' Amended
  Complaint is hereby **DISMISSED WITH PREJUDICE**;
- Plaintiffs' claim for compensatory damages in Count III of Plaintiffs' Amended
  Complaint is hereby DISMISSED WITH PREJUDICE;
- Count IV of Plaintiffs' Amended Complaint is hereby DISMISSED WITH PREJUDICE; and

4.	Plaintiffs shall file a Second Amended Complaint consistent with this Opinion
	within ten days from the date of this Order.

BY THE COURT:

/s/ Robert F. Kelly ROBERT F. KELLY SENIOR JUDGE